IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

LA.App. No. 616 of 2005(D)

LAR.186/2000 of SUB COURT, KOZHIKODE
.....

APPELLANT/ CLAIMANT IN LAR:

K.K. DEVAYANI,
AGED 46 YEARS, W/O. ASHOKAN,
KOLAPURATH THAZHAM, NELLICODE,
KOZHIKODE.

BY ADV. SRI. P.M. MOHAMMED SHIRAZ
SRI. A.B. RAJEEV

RESPONDENT/ RESPONDENT IN LAR:

THE SPECIAL TAHSILDAR,
LAND ACQUISITION, NATIONAL HIGHWAY-1,
KOZHIKODE.

BY GOVERNMENT PLEADER SRI. K.V. MANOJ.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO. 616 OF 2005

Dated this the 28th day of November, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the judgment and decree in L.A.R. No. 186/2000 on the file of the Sub Court, Kozhikode. Acquisition is for the purpose of Calicut bye-pass. The property is situated in Nellikode village.

2. The grievance is only with regard to compensation for severance. Learned Government Pleader submits that there is no dispute as to the entitlement regarding severance compensation. But the dispute is as to who is entitled to receive the same. The finding entered by the reference court is that the claimant in L.A.R. No. 185/2000 is entitled to the compensation whereas the appellant submits that it is a factual mistake committed by the reference court and it is the appellant herein, who is the claimant in L.A.R. No. 186/2000, who is entitled to receive the same.

3. It is brought to our notice that, this Court has already directed the reference court to consider afresh the claim for

correction of the judgment and decree in L.A.R. No. 185/2000 in CRP. No. 639/2005. In that view of the matter, it is only appropriate that the reference court considers the claim of the appellant herein regarding entitlement for severance with notice to the claimant in L.A.R. No. 185/2000 also, since the matter arises out of a common judgment.

Accordingly, we set aside the judgment and decree in L.A.R. No. 186/2000 and remit the matter to the reference court for considering the claim regarding entitlement for severance compensation with notice to the appellant herein and the claimant in L.A.R. No. 185/2000. The matter shall be disposed of within a period of four months from the date of production of a copy of this judgment.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp